

**REPLY COMMENTS ON RELIEF FOR THE STEEL INDUSTRY
UNDER SECTION 203(a) OF THE TRADE ACT OF 1974**

**Eaton Corporation's Response to Comments of
Domestic Specialty Steel Producers on Potential Action
With Respect to the Tool Steel and Stainless Steel Bar Industries**

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I. Introduction

On behalf of Eaton Corporation ("Eaton"), and pursuant to the notice of the Office of the U.S. Trade Representative ("USTR"), 66 Fed. Reg. 67349 (Dec. 28, 2001), we hereby submit Eaton's response to the comments submitted by the domestic specialty steel producers on the action the President should take with respect to imports of stainless steel bar and tool steel.

The domestic producers' proposal of a stringent three-year quota *and* a 15 percent tariff in the first year far exceeds the more limited relief recommended by the U.S. International Trade Commission ("Commission"). Any import restrictions, let alone the extreme measures proposed by the domestic producers, would only exacerbate the difficult conditions already faced by the auto parts sector in the midst of a national economic downturn. In particular, import restrictions on steel would hamper the recovery of the auto parts industry, and inevitably extend the recent string of layoffs, bankruptcies, and plant closings that the industry has suffered. In short, the domestic producers' proposal would violate the statutory directive that any remedy under Section 203(a) should "provide greater economic and social benefits than costs."

Moreover, no restrictive trade measures should be imposed on tool steel, as the Commission's collective decisions on tool steel must be deemed a negative injury determination. Finally, if there were any doubt about whether these industries merit relief, Eaton notes that most tool steel producers opposed relief and did not submit adjustment plans.

The President should announce a program of trade adjustment assistance for this industry, coupled with international negotiations to address industry overcapacity. Nonetheless, should the President decide to impose quotas on a country-by-country basis, he should use a more recent representative period and establish country allocations based on year 2001 imports.

II. Executive Summary

The President should accept the negative injury determination for the tool steel industry.

- The Commission's 3-3 vote on tool steel requires that the President determine whether to accept the negative or the affirmative vote as the views of the Commission. Here, special circumstances effectively invalidate the basis for two of the Commissioners' affirmative votes on tool steel.
- Commissioners Bragg and Devaney made an affirmative finding on tool steel only by considering tool steel in a single product group which included stainless slabs, stainless ingots, and stainless plate. These three products, which accounted for more than *half* of the imports in the group, received *negative* injury determinations by the Commission. The elimination of more than half of the import volume necessarily invalidates the analysis of Commissioners Bragg and Devaney based on the single product grouping. The President should either accept the negative determination as the decision of the Commission or request that the Commission reconsider its vote on tool steel.
- The Commission's record fully supports the plurality finding of no injury: For example, domestic employment, wages, production, and shipments all increased from 1996 to 2000. The domestic tool steel industry as a whole was profitable for each year throughout the entire 1996 to 2000 period of investigation.
- Only two companies, Latrobe Steel and Allegheny Ludlum, have submitted adjustment plans to the Commission and USTR, and 9 out of 13 producers affirmatively reported to the Commission that they would not make any adjustments to their steel operations if they were to receive import relief in this case. The provision of relief under Section 203(a)(1)(A) is expressly premised on adjustment of the affected producers to import competition. The failure of a majority of the domestic tool steel industry to submit plans for adjustment should bar any consideration of relief.

The Commission rejected the domestic producers' proposed import restrictions as excessive and imposing undue burdens on steel consumers

- With respect to stainless steel bar and tool steel, the Commission found the domestic producers' call for a three year quota based on 1993-95 import levels, coupled with a 15% tariff in the first year, unduly excessive. The Commission found that the domestic producers' plan would slash imports of these products to amounts substantially below the lowest levels

of the period of investigation, cause severe and undue negative effects on consumers and the net welfare, and generally exceed the remedy needed to address any injury.

The U.S. economy, the auto parts industry, and Eaton, are vulnerable to the adverse effects of import restraints, and the harm to U.S. users of tool steel and stainless steel bar would far outweigh any benefit to U.S. tool steel and stainless steel bar producers.

- The U.S. auto parts industry, which employs hundreds of thousands of workers in over 5,000 companies, is in the midst of a significant economic downturn. Layoffs, plant closings, and bankruptcies have accelerated since September 11. The already vulnerable auto parts sector would suffer significantly from the increased costs associated with import restrictions.
- Import restrictions on the type of imported steel Eaton requires, engine valve steel, would have a very significant impact on Eaton. Eaton has eight engine air management plants in the U.S., employing 3,000 people. Three of these plants, in Nebraska, South Carolina and Iowa, depend on imports for a small but important proportion of their stainless and tool steel requirements. Eaton is already experiencing economic difficulties at these facilities with both sales and employment down significantly since December 2000. Eaton's problems should not be exacerbated by imposing duties or quotas on the imported tool and stainless steel that enables Eaton to continue to produce engine valves at these facilities.
- Import restrictions would also severely impact other major steel consuming industries, and the economy at large. A recent study by the Consuming Industries Trade Action Coalition estimates that if certain trade restrictions were imposed, eight jobs would be lost for every steel job protected. Especially during a national recession, the severe remedy requested by domestic producers is ill-advised.

The domestic producers' approach would violate the President's statutory mandate

- If the President were to impose the relief sought by the domestic producers, such action would violate his mandate under Section 203(a) to ensure that his action provides greater economic and social benefits than costs.

The domestic producers' proposed import restraints far exceed the Commission's recommendations

- The domestic producers' plan for largely cutting off stainless bar and tool steel imports is in stark contrast to the remedy proposed by the Commission. For tool steel, the Chairman recommended a ten percent tariff, declining to four percent over four years. For stainless bar, a majority of the Commissioners recommended a lower level of tariff than for most steel products.

The Commission's report does not support any restrictions on tool steel and stainless bar.

- The tool steel and stainless bar industries are highly fragmented, specialized, and serve numerous disparate applications. Not all steel suppliers can or desire to serve the myriad of applications that use tool steel or stainless bar. The imposition of sweeping trade restrictions,

particularly without thoughtful consideration of exclusion requests, will do more harm than good for the U.S. economy.

- The Department of Commerce is currently conducting countervailing duty and antidumping investigations against the major foreign suppliers of stainless bar. The cases have been brought against exporters in France, Germany, the United Kingdom, Italy, Korea, and Taiwan. The preliminary determinations in nearly all of these cases have yielded substantial dumping or subsidy margins. Furthermore, existing remedial orders already cover imports from Brazil, India, Japan, and Spain. Thus, imports from those countries are already subject to additional duty requirements, and any trade problems in the stainless steel bar area should be handled, if at all, under these antidumping and countervailing duty proceedings.

Rather than impose trade-restrictive quotas or tariffs, the President should authorize trade adjustment assistance, coupled with international negotiations to reduce excess capacity

- Trade adjustment assistance, including loans and loan guarantees earmarked for capital expenditures, would allow the domestic steel industry to modernize and achieve competitive parity with foreign suppliers. In addition, the President should continue international negotiations aimed at reducing excess global capacity.

If the President nonetheless should determine that quantitative restrictions are necessary, he should use a more recent representative period for determining the import quota level, and should allocate the quota on a country-by-country basis over year 2001 imports

- Commission precedent in the *Wheat Gluten* case, TA-201-67, mandates the most recent three year period as the “representative period” for determining the average level of imports, absent “anomalous circumstances.” The Commission also found that increasing imports are no basis for finding the most recent period unrepresentative. In this case, those Commissioners recommending quotas agreed that the most recent period should be used.
- Any quota administered on a country-by-country basis should be allocated based on year 2001 imports, as this period most accurately reflects current market conditions, and therefore provides a more equitable way to manage trade.

III. The President Should Accept the Negative Injury Determination for the Tool Steel Industry as the Determination of the Commission

The imposition of any import relief under Section 203(a) is predicated on an affirmative finding that a surge in import volume has caused serious injury to the relevant domestic industry. Under Section 330(d)(1) of the Tariff Act of 1930, as amended, 19 U.S.C. §1330(d)(1), if the Commission's vote on injury to the domestic industry is a tie, the President may accept either determination as the determination of the Commission. Here, special circumstances effectively invalidate the basis for two of the Commissioners' affirmative votes on tool steel.

A. The Negative Determinations on Other Stainless Steel Products Invalidates the Commissioners' Analysis Based on Total Import Volumes of These and Other Products

In its injury vote on tool steel, the Commission ostensibly was evenly divided on the issue of injury to the tool steel industry. Three members, Vice-Chairperson Okun and Commissioners Miller and Hillman, voted in the negative, finding that "tool steel is not being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or threat thereof, to the domestic tool steel industry."¹ In particular, these three Commissioners found that the domestic tool steel industry is not seriously injured.

Chairman Koplan agreed that the domestic tool steel industry had not suffered serious injury to date, finding only a threat of future injury to the industry.² The remaining two members of the Commission, Commissioners Bragg and Devaney voted in the affirmative on tool steel,

¹ *Steel*, Inv. No. TA-201-73, USITC Pub. 3479 (December 2001), Views on Injury of the Commission, at 236 (emphasis added).

² *Id.*, at 260-61 (Separate Views of Stephen Koplan on Injury). Commissioners Okun, Miller, and Hillman specifically considered developments in the first half of 2001, on which Commissioner Koplan based his threat finding, and found that they were not sufficient to support a finding of an imminent threat of injury due to increased imports. *Id.* at 233-34.

but did so only by lumping tool steel in with a much larger group of products, including all semi-finished, flat, and long stainless steel products.³ However, for *several* of the products in this groups-- semifinished stainless steel products (i.e., slabs and ingots) and stainless steel plate-- the Commission as a whole rendered *negative* determinations of injury.⁴ The negative determinations on these stainless products (stainless slab, stainless ingots, and stainless plate) removes them from the case and necessarily invalidates the analysis of Commissioners Bragg and Devaney who based their affirmative injury votes on the volume of group of imports as a whole. Indeed, the three products alone account for well over half of the total imports in the stainless steel product group examined by Commissioners Bragg and Devaney. The import data in the Staff Report show that in 2000, imports of semifinished stainless (slabs and ingots) and stainless plate together accounted for 387,705 tons, or 55%, of the total imports of 707,191 tons of stainless semifinished, plate, bar, rod, and tool steel.⁵

Thus, with the integrity of the “affirmative” votes of Commissioners Bragg and Devaney resting upon tool steels’ aggregation with several products found *not* to be injurious, those votes are inherently flawed and must be discounted. Consequently, the President should accept the negative votes of Vice-Chairperson Okun and Commissioners Miller and Hillman as the determination of the Commission with respect to tool steel. Alternatively, the President should request that the Commission reconsider its vote on tool steel, after eliminating any reliance on

³ *Id.*, at 276-77, 287-88 (Separate Views on Injury of Commissioner Lynn M. Bragg) (basing injury determination on aggregated data for stainless slab, ingots, cut-to-length plate, bar, and rod and tool steel); *id.* at 332, 336 (Separate Views of Commissioner Dennis M. Devaney on Injury) (same).

⁴ *Id.*, Views on Injury of the Commission, at 26-27. For these products, Chairman Koplan joined Commissioners Okun, Miller, and Hillman in voting negative on injury.

⁵ Final Staff Report to the Commission on Investigation No. TA-201-73, October 25, 2001, at Stainless-16 to Stainless-20.

those products (stainless slab, stainless ingots, and stainless plate) which are already subject to negative determinations of the Commission.

B. The Factual Record Soundly Supports the Plurality Finding that the Tool Steel Industry is Not Suffering Serious Injury

The written views of the Commission and the final Commission staff report both support a negative determination with respect to tool steel. As detailed in Eaton's January 4, 2002 comments to USTR at 6, there was no significant idling of production facilities; production and U.S. shipments and U.S. exports rose over the period of investigation; employment and wages were up; and the industry as a whole operated profitably on an annual basis for the entire 1996 to 2000 period.

Nor can any domestic tool industry ills be attributed to imports, as Eaton discussed in greater detail at pages 7-8 of its January 4 comments. Eaton noted that imports of tool steel are not causing price erosion, as the average unit value of domestic shipments increased in the most recent periods. In addition, tool steel imports were found to have been sold at prices higher than domestic prices in a greater number of instances and to a significantly greater degree than they were found to have been sold at lower prices. Eaton further noted that the nearly 6,000-ton decline in domestic consumption from January-June 2000 to January-June 2001, causing a decline in capacity utilization, was a far more important cause than were imports of the industry's reduced operating results in the first half of 2001.

Finally, from the outset to the present, the domestic tool steel industry as a whole has shown little interest in obtaining import relief. More producers on a combined basis either opposed or took no position on relief, than did those that supported it.⁶ Briefs to the

⁶ *Steel*, USITC Pub. No. 3479, Vol. III, at Stainless-5 (Table Stainless-2).

Commission were filed on behalf of only two U.S. tool steel producers, Allegheny Ludlum and Latrobe Steel. In addition, 10 producers reported that factors other than imports were having an adverse impact on the domestic tool steel industry, while only 5 attributed such an impact to imports.⁷

More recently, only Latrobe Steel and Allegheny have submitted adjustment plans to the ITC and USTR, and 9 out of 13 producers affirmatively reported to the ITC that they would not make any adjustments to their steel operations if they were to receive import relief in this case.⁸ The provision of relief under Section 203(a)(1)(A), 19 U.S.C. §2253(a)(1)(A), is expressly premised on adjustment of the affected producers to import competition. The failure of a majority of the domestic tool steel industry to submit plans for adjustment should bar any consideration of relief.

IV. The Domestic Specialty Steel Producers' Recommendation for Relief Is Extreme and Unjustified

A. The Commission Found That the Domestic Producers' Proposed Import Restrictions Were Too Restrictive

In its January 4, 2002 comments to USTR, the domestic specialty steel producers proposed a combination of highly restrictive quotas and tariffs.⁹ The domestic producers call generally for a three-year quota program based on 1993-95 import averages for each product category, combined with an additional 15 percent tariff in the first year of the program. The

⁷ *Id.* at Stainless-89 (Table Stainless-108).

⁸ See list of plans at www.ustr.gov/sectors/industry/steel_201/adjustment.htm; *see also Steel*, USITC Pub. 3479, Vol. III at Stainless-91 (Table Stainless-110) (tabulation of U.S. producers' response to ITC questionnaire on plans for adjustment).

⁹ "Public Comments on Potential Action Under Section 203 of the Trade Act of 1974 With Regard to Imports of Certain Steel," Collier Shannon Scott, PLLC, Counsel to the Domestic Specialty Steel Industry, January 4, 2002 (hereinafter "SSINA Comments") at 3.

proposal envisions quotas imposed on a country-by-country and HTS-specific basis, along with an anti-surge mechanism, a restrictive short-supply feature, and a three-year relief period so as to avoid a “time-consuming and costly mandatory mid-term review.”¹⁰ Furthermore, the domestic producers request that, rather than modify any one aspect of this quota-based package, the President should impose “tariffs of an equivalent amount to the quotas” based on a formula that incorporates the additional 15% tariff in year one.¹¹

For stainless steel bar, the domestic producers’ approach would restrict imports to a three-year quota starting at 69,512 tons, with the total to increase by 3% in years two and three, plus a 15% tariff in year one. In lieu of this relief, the domestic industry seeks a tariff of 49% in year one, 31% in year two, and 28% in year three.¹²

The Commission found that these proposed quota levels would be unduly excessive.

With respect to stainless steel bar, the Commission stated:

We find that the remedies proposed by the domestic stainless bar industry and the USWA would exceed the amount necessary to prevent or remedy serious injury. First, both quota proposals would significantly limit the volume of stainless bar imports that could enter the country if imposed. The domestic stainless bar industry’s proposed quota would limit the volume of imports during the first year of relief to a level nearly thirty percent lower than the level in 1996, which was the year that imports were at their lowest levels of the period of investigation... In addition, our economic analysis indicates that the industry’s quota proposal would have a much more substantial negative effect on both consumer costs and on net welfare benefits than the tariff remedy we have chosen. Finally, these proposed quotas have significant drawbacks in terms of the predictability of their impact during periods of demand changes, their administrability, and their flexibility in the face of short supply situations.¹³

¹⁰ SSINA Comments at 5.

¹¹ SSINA Comments at 5-6.

¹² SSINA Comments at 13-14.

¹³ *Steel*, Inv. No. TA-201-73, USITC Pub. 3479, December 2001 at 398.

For tool steel, the domestic producers' approach would restrict imports to a three-year quota starting at 53,540 tons, with the total to increase by 3% in years two and three, plus a 15% tariff in year one. In lieu of this relief, the domestic industry seeks a tariff of 36% in year one, 18% in year two, and 15% in year three.¹⁴ Of the three Commissioners that voted to provide any remedy on tool steel, only Commissioners Koplan and Devaney commented on the domestic proposal, and echoed the Commission's view on stainless bar that the domestic industry's proposal would exceed the amount necessary to remedy or prevent serious injury, and would have a substantial negative effect on steel consumers.¹⁵

B. The Domestic Producers' Proposal Would Cause Significant Harm to the Auto Parts Industry and the Economy in General

1. Impact of Domestic Industry's Plan on Auto Parts Sector

In Eaton's view, the economic repercussions from the domestic producers' proposed approach would be severe and long-lasting for both the U.S. auto parts industry and for Eaton in particular. The auto parts industry employs hundreds of thousands of workers at approximately 5,000 firms across the United States. The industry uses steel to produce automotive stampings; carburetors; pistons, piston rings, and engine valves; vehicular lighting equipment, and countless other auto and truck components. The U.S. motor vehicle manufacturing industry, which itself directly employs another 620,000 American workers, depends on auto parts suppliers for many of its key components.

As detailed in Eaton's January 4, 2002 comments to USTR, the auto parts industry is facing its own difficult economic circumstances and cannot afford the additional burden of

¹⁴ SSINA Comments at 17-19.

¹⁵ *Steel*, Inv. No. TA-201-73, USITC Pub. 3479, December 2001 at 418 (Koplan); 545 (Devaney).

supply disruption and added costs of import restrictions on steel. The auto parts industry is already experiencing layoffs, plant closings, and bankruptcy filings as the economic downturn accelerates following the events of September 11. Since September 1999, there have been at least 12 bankruptcies in the industry, including Federal Mogul,¹⁶ one of the largest auto parts suppliers, as well as many others. In addition, significant job losses and/or plant closings have occurred over the past year at Delphi Automotive Systems,¹⁷ Visteon Corporation,¹⁸ Exide Technologies,¹⁹ Dana Corporation,²⁰ TRW Inc.,²¹ Federal Mogul Corporation,²² Tenneco Automotive,²³ and ArvinMeritor, Inc.²⁴ And in the wake of September 11, the tolls continue to mount as auto sales slow. In October, Donnelly Corporation posted a net third-quarter loss of \$3.4 million, citing an auto industry slowdown exacerbated by the September 11 attacks.²⁵ Delphi said third-quarter earnings fell 82% and that it will continue closing plants.²⁶ A chart

¹⁶ "Federal Mogul Corporation Granted Use of \$450 Million in Interim D Financing in Voluntary Chapter 11 Case; First-Day Orders Approved," October 4, 2001, Federal-Mogul.com.

¹⁷ "A Bumpy Ride Ahead for Parts Industry," *LA Times.com.*, October 21, 2001.

¹⁸ *Id.*

¹⁹ "Exide Technologies Announces Additional Plant Closings, Other Restructuring Actions," www.exideworld.com, March 30, 2001.

²⁰ "Rust Belt Businesses Take a Hit as the Economy Sours," *The Detroit News*, Feb. 15, 2001.

²¹ "Ohio-Based Auto Parts Maker to Cut 1000 Salaried Workers by End of March," *Daily Labor Report*, March 9, 2001; "TRW to Merge Auto Divisions, Cut Jobs," *The Phoenix Business Journal*, September 7, 2001; "TRW Announces Plans to Close Valve Plant," TRW Inc. Press Release, October 18, 2001, TRW.com.

²² "Ohio-Based Auto Parts Maker to Cut 1000 Salaried Workers by End of March," *Daily Labor Report*, March 9, 2001.

²³ *Id.*

²⁴ "After Peak, Parts makers Drive into Industry Valley," *Chicago Tribune*, December 6, 2000.

²⁵ "Donnelly Corp. Widens Third-Quarter Loss," *Yahoo.com.*, October 25, 2001.

²⁶ "A Bumpy Ride Ahead for Parts Industry," *LA Times.com.*, October 21, 2001.

summarizing these job losses is contained in the *Detroit News*²⁷ article, submitted as Attachment 1 to these comments. And the job losses continue. Early last month, Dana Corporation announced it would eliminate 11,250 more jobs worldwide and close or combine more than 30 facilities at a cost of \$400-450 million.²⁸

Nor would auto parts producers be able to pass on the higher costs of to their customers, the major automotive producers. The big auto producers are no more financially secure than their auto parts suppliers, and the Big Three are pressing suppliers for price reductions, not increases. Just this past week Ford Motor Co. announced plans to cut 35,000 jobs worldwide, close five plants, and eliminate four car models during the next few years as it struggles to return to profitability.²⁹ Ford said it plans to eliminate 15,000 hourly jobs and 5,000 salaried jobs in North America alone. Ford announced it would be reporting its first annual loss since 1992 and take an after tax charge of \$4.1 billion for the restructuring. At the same time, General Motors announced plans to offer buyouts to about 5,000 white-collar workers as part of continuing belt-tightening in an automotive industry reckoning with recession.³⁰ Neither the auto part industry or the automotive industry can afford the remedy proposed by the domestic industry.

2. Impact of Domestic Industry's Plan on Eaton

Import restrictions on the type of steel Eaton must purchase from foreign sources, engine valve steel, also would have a significant negative impact on Eaton. In the U.S., Eaton's Engine

²⁷ "Attacks fallout hits auto suppliers," *The Detroit News*, Oct. 26, 2001 (Attachment 1 to these comments).

²⁸ "Dana to Absorb US \$445M Charge; Production Slowdown Forces Job Losses, Plant Consolidation," *Financial Post Datagroup*, December 4, 2001.

²⁹ "Ford To Cut 35,000 Jobs," *Washington Post*, January 11, 2002.

³⁰ "Thousands of Jobs Expected to Be Cut at G.M. and Ford," www.nytimes.com/2002/01/09/business/09AUTO.html, January 9, 2002.

Air Management Operations (“EAMO”) division employs about 3,000 employees at eight different locations, primarily in the Midwest. Three of these plants, at Kearney, Nebraska; Belmond, Iowa; and Westminster, South Carolina, depend on imports for the relatively small proportion of its stainless and tool steel requirements that Eaton cannot obtain from domestic suppliers. If Eaton were unable to source these engine valve steels from abroad, it may be compelled to shift production from its U.S. facilities to its plants in other countries (located in Italy, Germany, Poland, Spain, and Brazil). As detailed in Eaton’s January 4, 2002 comments to USTR, some of Eaton’s U.S. facilities are already experiencing economic difficulties, rendering them particularly vulnerable to the adverse impact that would occur if trade restrictions were imposed. Eaton can neither afford to absorb additional duties nor to pass them on to its customers. Eaton itself competes with foreign valve producers that will continue to have access to foreign tool steel and stainless steel bar at global prices.

3. Impact of Domestic Industry’s Plan on Other Industries and the Overall Economy

The auto parts and automotive industries are obviously not the only industries that stand to lose from import restrictions. Other major steel consuming industries that would be affected by steel import restrictions include oil and gas; construction; construction and materials handling equipment; rail transportation; containers, packaging and shipping material; electrical equipment; and appliances, among others.³¹

A new study prepared by Trade Partnership Worldwide, LLC, for the Consuming Industries Trade Action Coalition (CITAC) examines the overall economic impact of the proposed import restrictions on steel. The study examined two scenarios: a low-tariff (9.2%) and

³¹ Final Staff Report to the Commission on Investigation No. TA-201-73, October 25, 2001, at Overview-14.

a high-tariff (20.7%) program. The estimated effect of either program would be a significant net loss of jobs and production for the U.S. economy as a whole. Under either scenario, *eight jobs would be lost for every steel job protected*. The cost to American consumers would total between \$1.9 billion and \$4.0 billion a year, amounting to over \$439,000 for each steel job protected.

With the economy in the midst of a recession,³² the timing of the domestic producers' requested remedy could not be worse.

C. The Domestic Producers' Approach Would Violate the President's Mandate under the Trade Act of 1974

Under Section 203(a) of the Trade Act of 1974, the President is directed not to impose relief for one industry that would impose a disproportionate cost on other industries and on consumers. Section 203(a)(1)(A) states that, upon receiving an affirmative finding of injury or threat from the Commission, the President:

shall take all appropriate and feasible action within his power which the President determines will facilitate efforts by the domestic industry to make a positive adjustment to import competition *and provide greater economic and social benefits than costs*.

19 U.S.C. §2253(a)(1)(A) (emphasis added).

³² The National Bureau of Economic Research announced that the U.S. went into a recession at the end of March 2001. CNN.Money, "Economists call it Recession," Nov. 26, 2001. Since that time, the national unemployment rate has shot up from 4% to 5.8% -- its highest level in six and a half years, and one of the most rapid rises ever recorded. The Economist, January 10, 2002. The Consumer Confidence Index, which stood at 116.9 at the start of the recession, now stands at 93.7, while consumer debt rose at by 14% in November, the largest one month rise ever. www.pollingreport.com/consumer.htm Business profitability has fallen while industrial production has declined at an annual rate of 5.9%. The Economist, January 5, 2002. In addition, the \$117b surplus the United States enjoyed in 2000 is essentially depleted. "Deficit History," <http://ibert.org/deficit.html>.

In addition, in making his relief determination, the President is required under Section 203(a)(2)(F), 19 U.S.C. §2253(a)(2)(F), to consider certain factors relating to the national economic interest, including “the effect of the implementation of actions under this section on consumers and on competition in domestic markets for articles.” Further, Section 202(f)(2)(G), 19 U.S.C. §2252(f)(2)(G), directs the President to consider whether providing import relief to one U.S. industry would unduly burden other domestic industries and consumers.

The President’s statutory mandate is clear. He must ensure that whatever relief is taken on behalf of the steel industry does not cause even greater costs for other industries or consumers. This would surely occur in the case of auto parts, and likely many other similarly-situated sectors. Restrictive steel quotas as proposed by the domestic producers are not in the country’s economic interest and should not be imposed.

D. The Domestic Specialty Steel Producers’ Proposed Import Restraints Far Exceed the Commission Recommendations

The domestic producers’ plan for trade restrictions on tool steel and stainless steel bar well exceeds the relief recommendations for these sectors proposed by the Commission.

Putting aside the tenuous nature of the affirmative votes on tool steel (discussed above), the three Commissioners who recommended some form of relief for this sector were unable to reach any consensus. Indeed, the Chairman of the Commission, who found no current injury and only a threat of future injury to the tool steel industry, recommended a ten percent tariff, declining to four percent over four years. With respect to stainless bar, the majority of the Commission recommended a lower level of tariffs than for the major steel products.

Eaton submits that no restrictions should be imposed on imports of either tool steel or stainless bar. If the President determines to impose any import restrictions on these products, he

should use the tariff level recommended by Chairman Koplan for tool steel, and an equivalent level for stainless steel bar.

E. The Commission's Report Does Not Support *Any* Restrictions on Tool Steel and Stainless Steel Bar

There are three compelling reasons why *no* restrictions on tool steel or stainless bar should be imposed, let alone at the level proposed by the domestic producers. First, as discussed above in Part III, the vote on tool steel must be deemed a negative determination. Second, both of these industries are too fragmented to benefit from sweeping trade restrictions. Third, the stainless bar industry is already obtaining import relief against the major foreign steel bar producers through a series of antidumping and countervailing duty cases.

1. The Tool Steel and Stainless Bar Industries Are Too Fragmented to Benefit From Sweeping Trade Restrictions

The harsh medicine sought by the domestic industry in the form of quotas and/or high tariffs would be of little practical value to the domestic tool steel and stainless bar industries. Both industries are characterized by countless specialty, non-fungible products serving totally distinct applications.

Tool steels in general are more specialized, with higher alloy compositions and metallurgies engineered for particular applications, and are typically produced and sold in much smaller quantities. Tool steels are preferred for more demanding cutting and forming applications, such as dies, molds, blades, punches, and surface areas of machinery, but are used to produce numerous products across many industries where durability and resistance to wear are critical requirements. Tool steel imports subject to the Section 201 case are classified under no fewer than 30 different HTS subheadings. The only two domestic tool steel producers that have publicly supported a remedy for tool steel have themselves emphasized that the tool steel market

differs significantly from the market for other steel products.³³ In many instances, U.S. industrial users, like Eaton, have developed proprietary tool steel specifications that only foreign tool steel producer can satisfy.

The same holds true for stainless steel bar, which according to the Commission staff “is used in a wide variety of applications where its corrosion-resistance, heat resistance, and/or appearance are desired. A nonexhaustive list of end users includes the aerospace industry, automotive industry, chemical processing industry, dairy industry, food processing industry, pharmaceutical equipment, marine applications, and pump and connectors for fluid handling systems.”³⁴

The domestic industry’s sweeping trade restrictions for these industries would ignore their users’ specialized and diverse supply requirements and particular economic interests, ultimately doing more economic harm than good.

2. The Stainless Bar Industry is Already Obtaining Relief From Imports of Steel Bar Through a Series of Antidumping and Countervailing Duty Cases.

The quota and tariff arrangement sought by the domestic industry for the stainless bar industry is not only unwarranted in its own right; it is entirely redundant. This is because the industry is already obtaining import relief under the antidumping and countervailing duty laws. The Department of Commerce is currently conducting countervailing duty and antidumping investigations against the major foreign suppliers of stainless bar. The cases have been brought against exporters in France, Germany, the United Kingdom, Italy, Korea, and Taiwan. The

³³ Pre-Hearing Brief to the Commission of Latrobe Steel Company and Allegheny Ludlum Corp., October 5, 2001, at 4.

³⁴ Staff Report to the Commission on Investigation No. TA-201-73, October 25, 2001, at Stainless-4.

preliminary determinations in nearly all of these cases have yielded substantial dumping or subsidy margins.³⁵ In addition, on April 18, 2001, Commerce announced it would continue the existing antidumping orders on stainless steel bar from Brazil, India, Japan, and Spain.³⁶ Thus, imports from those countries are already subject to additional duty requirements. Any trade problems in the stainless steel bar area should be handled, if at all, under these antidumping and countervailing duty proceedings.

V. Rather than Impose Trade-Restrictive Quotas or Tariffs, The President Should Authorize Trade Adjustment Assistance, Coupled With International Negotiations to Reduce Excess Global Capacity

As discussed above, a majority of the Commission found that the domestic tool steel industry remained profitable throughout the period of investigation and has not suffered significant injury. Accordingly, the tool steel producers (the majority of which reported they would not make any adjustment if import relief were imposed³⁷) do not merit or require assistance to adjust to import competition.

³⁵ The results in the antidumping cases were as follows: *Stainless Steel Bar From the United Kingdom*, 66 Fed Reg. 40192 (August 2, 2001) (preliminary margins ranging up to 125.77%); *Stainless Steel Bar From Korea*, 66 Fed Reg. 40222 (August 2, 2001) (preliminary margins ranging up to 10.05%); *Stainless Steel Bar From France*, 66 Fed Reg. 40201 (August 2, 2001) (preliminary margins ranging up to 28.07%); *Stainless Steel Bar From Germany*, 66 Fed Reg. 40208 (August 2, 2001) (preliminary margins ranging up to 21.03%); *Stainless Steel Bar From Italy*, 66 Fed Reg. 40214 (August 2, 2001) (preliminary margins ranging up to 33.00%); and *Stainless Steel Bar From Taiwan*, 66 Fed Reg. 40198 (August 2, 2001) (preliminary margins de minimis). In the countervailing duty investigation on Italy, *Stainless Steel Bar from Italy*, 66 Fed. Reg. 30414 (June 6, 2001), Commerce found preliminary margins of 12.59%.

³⁶ *Notice of Continuation of Antidumping Duty Orders: Stainless Steel Bar from Brazil, India, Japan and Spain*, 66 Fed. Reg. 19919 (April 18, 2001).

³⁷ *Steel*, USITC Pub. 3479, Vol. III at Stainless-91 (Table Stainless-110) (tabulation of U.S. producers' response to ITC questionnaire on plans for adjustment).

For other sectors, Eaton believes that the appropriate goal for the U.S. steel industry should be restructuring, and that trade adjustment assistance (“TAA”) to the affected producers, coupled with negotiations to reduce global steel overcapacity, may be a useful way to facilitate this goal. TAA should not be limited to technical assistance, but should include loans and loan guarantees for significant capital expenditures. Such expenditures should be earmarked for specific industry modernization efforts and be conditioned upon a detailed recovery plan that commits the industry to modernization milestones and ensures its competitive footing in the global market.

In addition, Eaton supports the United States’ efforts in the OECD discussions regarding reductions in global steel-making capacity. The Commission stated it was “essential that international negotiations result in a significant reduction in global capacity, and we recommend that the President strive to achieve this goal, which is vital to the long-term viability of the domestic industry.”³⁸

Eaton notes that the domestic producers also support trade adjustment assistance and capacity reduction discussions, but only *in addition* to the trade restrictions it has proposed.

³⁸ *Steel*, Inv. No. TA-201-73, USITC Pub. 3479, December 2001 at 355-56.

VI. If the President Decides to Impose Country-by-Country Quotas for Stainless Bar or Tool Steel, The President Should Use a More Recent Representative Period and Such Quotas Should Be Allocated Based on Year 2001 Import Levels

For the reasons stated above, Eaton strongly disagrees with the domestic producers as to the nature and extent of relief, if any, the President should extend to the stainless bar and tool steel industries. However, if the President should nonetheless decide to impose quotas and administer them on a country-by-country basis as the domestic producers propose, any such quotas should (a) utilize a more recent representative three-year period to establish average import levels, and (b) assign country-by-country quotas based on current (full year 2001) import shares.

A. Commission Precedent Requires Use of the Most Recent Three Year Period as the “Representative” Period for Determining the Average Level of Imports

Section 203(e)(4) of the Trade Act of 1974, 19 U.S.C. §2253(e)(4), provides that the level of any quota the President imposes shall be “not less than the average quantity or value of such article entered into the United States in the most recent three years that are representative of imports of such article and for which data are available, unless the President finds that the importation of a different quantity or value is clearly justified in order to prevent or remedy the serious injury.” In its comments, the domestic specialty steel producers go to great length to establish that 1993-95 is the “only” possible representative period that would remedy their claimed injury. The domestic producers argue that more recent import years are too high, and that use of the 1993-95 period would restore the market to pre-injurious import levels and correlate to its own projections of demand over the next several years.³⁹

³⁹ SSINA Comments at 4; Attachment 1, p. 6.

The domestic industry is wrong. In the most recent Section 201 case to discuss the issue, *Wheat Gluten*, Inv. No. TA-201-67, 1998 ITC Lexis 70, Pub. No. 3088 (March 1988), the Commission made it quite plain that, absent anomalous circumstances, the most recent period should be used, notwithstanding increasing imports. The majority stated:

We note that the statute was amended in 1994 to provide that any quantitative restriction should be based on average import levels "in the most recent 3 years that are representative of imports," unless a different amount is "clearly justified" to prevent or remedy the serious injury. Accordingly, we conclude that, ***in the absence of anomalous circumstances that render any of those years unrepresentative of imports, any quantitative restriction should take into account average import levels during the most recent three years.*** n133

n133 We generally would ***not consider*** an increase in imports during the most recent three years to mean that any or all of those years are not "representative" of imports.

Wheat Gluten, 1998 ITC Lexis 70, at * 70-71 (emphasis added). Although the Commission then proceeded to select a different amount that it considered necessary to remedy the injury to the industry, it does not change the conclusion that increasing imports in the most recent period are no bar to finding that period representative, at least absent "anomalous circumstances."

In this case, the Commissioners recommending quotas essentially adhered to the *Wheat Gluten* precedent and selected import volume levels for stainless bar and tool steel that existed during the years 1996-1999. Commissioner Okun selected quotas based on various three year periods within 1996-1999, while Commissioner Devaney based his quota recommendations on the 1996-1998 period.⁴⁰

⁴⁰ *Steel*, Inv. No. TA-201-73, USITC Pub. 3479, December 2001 at 431, 539.

B. Any Quota Administered on a Country-by-Country Basis Should Be Allocated Based on Full Year 2001 Import Levels

The domestic specialty steel producers recommend that the requested quotas be allocated on a country-by-country basis. For most products other than tool steel, they further propose that quota allotments among countries be based on import trends over the last five years (1996-2000).⁴¹ For tool steel, however, the domestic producers recommend that country allocations be based on year 2000 imports.⁴²

Eaton submits that any country allocations for tool steel should be based on the most recent import statistics available, i.e., for calendar year 2001. If quotas are imposed – despite the inherent inefficiency, distortions, and disruption they bring to a market – we submit that the full year 2001 import data would more accurately reflect current market conditions, and therefore would provide a more equitable way to manage trade.

Indeed, this principle was recognized by the Commission in an earlier Section 201 proceeding on stainless and tool steel:

There have also been new entrants into the market that have demonstrated their ability to compete on the basis of comparative advantage and efficient use of resources. Suppliers who have gained market share as a result of fair trade and efficient operation should not be penalized by basing allocations on trade patterns existing too far in the past.⁴³

In addition, use of year 2001 import shares for any country allocation would also be fulfill with the United States' international obligations under Article XIII of GATT 1994. Article XIII provides that any import restrictions be aimed “at a distribution of trade in such product approaching as closely as possible the shares which the various contracting parties might

⁴¹ SSINA Comments at 20-21.

⁴² *Id.* at Attachment 5.

⁴³ *Stainless Steel and Alloy Tool Steel*, Inv. No. TA-201-48, USITC Pub. 1377 (May 1983), 1983 ITC LEXIS 165, *58 (footnotes omitted).

be expected to obtain in the absence of such restrictions” The best measure of the import share that each country would obtain in the absence of new import restrictions is the share they each held in the year immediately preceding imposition of such restrictions.

VII. Conclusion

The President should not embrace any remedy that causes American jobs in other industries, such as the auto parts industry, to be moved overseas, or otherwise causes further financial problems in steel-consuming industries. Such is the likely outcome in the U.S. auto parts industry if sweeping trade restrictions are imposed on its foreign-made steel inputs. Instead, Eaton urges the President to carefully consider the Commission’s recommendations for relief for each of the separate steel industry sectors, and adopt a program of trade adjustment assistance coupled with international negotiations to address problems of excess global capacity.

Respectfully submitted,

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Charles V. Tines / The Detroit News

Mike Chapin runs steering gear tests at the Delphi plant in Saginaw. Auto suppliers have cut workers as profit margins shrink.

Attacks' fallout hits auto suppliers

Many firms forced to downsize, slash costs to keep afloat

By Susan Carney / *The Detroit News*

DETROIT -- The lasting economic fallout of the Sept. 11 terrorist strikes remains unclear but the backlash has been immediate and brutal for auto parts suppliers.

Even as automakers fuel car and truck sales with zero-percent financing -- October could be the best sales month ever -- many component makers are scrambling to downsize and trim costs.

Dana, Tower, Lear and other major companies are slashing dividends, closing plants, jettisoning unprofitable business lines, trimming capital outlays, and accelerating job cuts in a vivid display of supplier vulnerability in an economic crisis.

The attacks were a catalyst, however, not a cause. Some parts makers, already reeling from shrinking profit margins and increasing demands for price cuts, had been restructuring in response to an industry downturn that began about a year ago.

But the events of the last few weeks have accelerated the retrenching, which no doubt will continue.

Automakers eventually will pull back on the zero-percent deals unleashed to spur sales that plummeted in the days after the attacks. When they do, consumer demand could dry up again, perhaps wiping out more vehicle production, auto and



Charles V. Tines / The Detroit News

Calvin Walker, left, Mike Gullett and Terry VanElsacker still have their jobs at Delphi's Saginaw plant.

Supplier cutbacks

triggering more vehicle production cuts and cost-saving drives and pushing parts makers into an even more precarious position.

"We probably all made prudent cuts to get through September, obviously not thinking about the tragedy," said Peter J. Pestillo, Chairman of [Visteon Corp.](#), the second-largest parts maker in North America and a former [Ford Motor Co.](#) subsidiary.

"Now we find the pressures are unrelenting."

Parade of setbacks

The parade of setbacks for suppliers began almost immediately after hijacked planes slammed into the World Trade Center and the Pentagon.

With air shipments halted and border crossings delayed for hours by heightened security, many suppliers could not deliver parts to automakers. Car and truck sales, already stumbling before the attacks as the economy weakened, fell off dramatically -- 25 percent or more.

[Ford Motor Co.](#), [General Motors Corp.](#) and [DaimlerChrysler AG](#)'s Chrysler Group cut vehicle production, drying up parts demand. Zero-percent financing has ignited sales, but many new cars and trucks are being sold from inventory, which means no corresponding spike in vehicle or parts production.

"We truly are in the process of pulling ahead sales," Pestillo said. "It's wise to begin getting as lean as we possibly can."

Suppliers are taking bold steps to bolster the bottom line, underscored by a flood of weaker third-quarter earnings reports.

Toledo-based axle maker [Dana Corp.](#) effectively eliminated its dividend and said it will cut 11,250 jobs and close or consolidate about 30 plants.

Tower Automotive Inc. in Grand Rapids, which makes stamped vehicle frames, said it will eliminate 500 jobs and close a plant in Sebewaing, Mich.

[Lear Corp.](#) in Southfield, the largest maker of automobile interiors, plans a restructuring that will likely include plant closings and more job losses on top of 4,800 positions slashed earlier in the year.

"Global economic conditions and the prospect of further declines in the market forced us to refine our business model," Dana Chief Executive Joe Magliochetti said last week. "We started to see positive results from right-sizing, but we're convinced more dramatic steps are needed."

While suppliers struggle, however, automakers have no immediate plans to close plants permanently or ax additional workers, even at problem-plagued Ford and Chrysler, where major restructurings are already under way.

The contrast underscores suppliers' sensitivity to economic declines.

"The further you get away from the consumer (in the supply chain) the effects of the uncertainty are amplified," said Russell Hensley, a consultant with Arthur Andersen LLP's automotive practice.

Moreover, U.S. auto parts suppliers derive most of their business from U.S. automakers, who saw the most dramatic sales drops after Sept. 11.

Supplier cutbacks

Auto parts makers are closing plants, accelerating job cuts and slashing their dividends in the wake of the Sept. 11 terrorist attacks that have clouded the outlook for new car and truck sales. Number of job cuts announced by major suppliers in the past year:

Company Job cuts
 Delphi 16,500
 Dana 15,800
 Goodyear 9,200
 Lear 8,000
 Visteon 3,500
 TRW 3,400
 Intermet 2,400
 ArvinMeritor 1,700
 Bridgestone/Firestone 1,300
 Federal-Mogul 1,300
 Tower Automotive 1,175
 Source: Company reports

Supplier cutbacks

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Bridgestone/Firestone	1,300
Federal-Mogul	1,300
Tower Automotive	1,175

Source: Company reports

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Suppliers with a more diversified customer base are better positioned to weather economic hard times.

"If you look at suppliers in the United States, they don't do a lot of business with Toyota or Hyundai or BMW or Mercedes," Hensley said. "It tends to be with the Big Three and Big Three market share is certainly on the decline."

Not all hurting

Of course, not all suppliers are hurting.

American Axle & Manufacturing Inc. cashed in on its dependence on GM's strong-selling pickups and sport-utility vehicles during the third quarter with a 5.4-percent increase in net income and a 10-percent increase in sales.

Nonetheless, the axle and drive shaft manufacturer predicts North American vehicle production could drop another 5 percent next year to about 15 million units -- a sharp drop from record industry sales of 17.4 million units in 2000.

U.S. vehicles sales could drop as low as 14.2 million, by some estimates.

The declines are symptomatic of the industry slowdown that began late last year. Some parts makers, including heavyweights Visteon and Delphi Automotive Systems of Troy, the world's largest supplier, launched restructurings earlier this year to remain competitive.

But analysts say the latest downsizing moves should have happened sooner.

Many companies stalled, hoping an economic recovery would be in the works by the fourth quarter, said Donna Parolini, a supplier consultant with IBD Corp. in West Bloomfield Township.

"They just can't put it off any longer," she said.

Hensley predicts the industry is headed for a shakeout and restructuring because profits are too thin to support current payrolls, plants and research needs.

Losing leverage

Bigger suppliers will be better positioned to succeed, but it will become more difficult to secure capital to expand. Stock prices for many auto parts makers have dropped to new lows, limiting their financial leverage.

More companies, strapped for cash, could follow [Federal-Mogul Corp.](#), a Southfield-based maker of piston rings, engines seals, and other parts, into bankruptcy.

In the short term, free vehicle financing is shoring up the industry. But it's temporary relief at best, buying volume at the expense of profit. And nobody knows what the future holds.

"We all know the impact of consumer confidence and the lack thereof on auto sales," Pestillo said. "What we're seeing now is a new uncertainty affecting consumer confidence. It's more than a mere imponderable. It's a reality we can't yet quantify."

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